

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 99-602

December 1, 1999

BANGOR HYDRO-ELECTRIC COMPANY  
Request to Continue Certain Generation-  
Related Business Activities

ORDER AUTHORIZING  
BANGOR HYDRO-ELECTRIC  
COMPANY TO CONTINUE  
CERTAIN GENERATION-  
RELATED BUSINESS  
ACTIVITIES

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**I. SUMMARY**

In this Order, we grant Bangor Hydro-Electric Company's (BHE) request to continue certain generation-related business activities related to its existing power sales contract with Unitil Power Corporation (Unitil), including continued power sales to Unitil, sales of the output from BHE's diesel units and 6 MW of its PERC entitlement to Unitil, and purchases from the wholesale market in order to sell power for Unitil in the most cost effective manner. We do so because we find that BHE's continuation of these generation-related business activities will likely reduce the level of BHE's stranded costs.

**II. BACKGROUND**

On August 26, 1999, BHE filed a Petition requesting authorization to continue certain generation-related business activities after March 1, 2000. Specifically, BHE asked the Commission to authorize it: (1) to sell capacity and energy to Unitil until February 2003 in accordance with an existing power sales contract; (2) to operate BHE's diesel-fired generating units in Bar Harbor, Eastport and Medway and to sell any output either to Unitil under the existing power sales contract or to other purchasers on the open market; (3) to retain a portion of its contractual entitlement to capacity and energy from PERC to fulfill its obligations under the Unitil contract; and (4) to make short-term purchases of capacity and energy, as necessary, also to fulfill its Unitil contract obligations.

Unitil Contract

As described in BHE's Petition, BHE's contract with Unitil obligates it to provide Unitil with 6 MW of capacity and the associated energy from PERC and an additional 18.27 MW from BHE's system. The obligation to provide the 6 MW PERC portion extends through February 2003; the obligation to provide the 18.27 MW of system power terminates in August 2002. The revenues BHE receives from the Unitil contract are approximately equal to \$13 million per year.

BHE seeks authorization pursuant to 35-A M.R.S.A. § 3204(3) and Chapter 307 of the Commission's rules to continue to fulfill the terms of the Unitil contract. BHE states that postponing divestiture of this contract until the contract terminates in February 2003 will allow it to use the revenues it produces to reduce its stranded costs.

### PERC

As noted above, the Unitil contract requires BHE to provide Unitil with 6 MW of capacity and the associated energy from PERC. Thus, BHE is seeking authorization to not sell its entitlement to a 6 MW portion of the PERC contract under the Chapter 307 bid process, but instead to sell the capacity and energy to Unitil.<sup>1</sup>

### Diesel Generation Units

The Unitil contract also obligates BHE to provide Unitil with 18.27 MW of system power in addition to 6 MW from PERC. BHE has historically used its diesel generation units to fulfill this system power obligation. BHE currently owns 11 diesel units located in Bar Harbor, Eastport and Medway, Maine, with a combined capacity of approximately 21 MW. BHE will continue to own these units after March 1, 2000. BHE now seeks an exception from the requirement that it sell any capacity and energy provided by the diesel units in accordance with the Chapter 307 bidding and sale procedures. BHE states that the Bar Harbor and Eastport diesel units provide transmission support and, thus, are necessary for BHE to perform its obligations as a transmission and distribution (T&D) utility. BHE further states that the capacity and energy provided by the diesels help BHE fulfill its system power obligation under the Unitil contract or, alternatively, can provide value through a sale on the open market.<sup>2</sup>

The Commission already found that BHE's ownership of the Bar Harbor and Eastport units is necessary for BHE to efficiently perform its obligations as a T&D utility. At the same time, the Commission granted BHE an extension to divest the Medway units, because the extension would likely improve their sale value. *Bangor Hydro-Electric* (sale of generation assets to PPL), Docket No. 98-820 (February 3, 1999).

### Short-Term Purchases

Finally, BHE seeks authorization, pursuant to 35-A M.R.S.A. § 3204(6), to make short-term purchases on the open market, if necessary, to provide system power to Unitil through August 2002. BHE would make these market purchases to serve the

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<sup>1</sup>BHE's Chapter 307 bid process, already approved by the Commission in Docket No. 99-284, has been structured such that BHE would retain this portion of the PERC entitlement. BHE's Chapter 307 bid process also did not include the output from the diesel units.

<sup>2</sup> We assume BHE's reference is to the wholesale market.

Unitil contract only if capacity and energy from its diesels were insufficient or uneconomic.

### III. DISCUSSION

The key component of BHE's set of requests is the Unitil power sales contract. The requests relating to PERC, the diesels and market purchases are, in large part, necessary only to enable BHE to fulfill its sales obligation to Unitil. Thus, the threshold question is whether BHE ought to retain this sales obligation after March 1, 2000. In the alternative, BHE would divest the obligation pursuant to the requirements of 35-A M.R.S.A. § 3204(1).

The Unitil contract provides substantial benefits to BHE ratepayers. Specifically, the revenues from the contract are approximately \$13 million in the rate year that begins March 1, 2000. The revenues received from Unitil are likely to be significantly greater than the costs to BHE to supply the 18.27 MW of power or the revenue received from selling the 6 MW of PERC capacity through BHE's Chapter 307 bid process. Thus, sales to Unitil provide a substantial offset to BHE's stranded costs.

The questions then are: (1) whether allowing BHE to retain its Unitil sales obligation would be inconsistent with the overall goal of restructuring; and (2) whether such an approach would be likely to provide the greatest offset to BHE's stranded costs. We find that allowing BHE to continue to supply Unitil through the contract term would not be inconsistent with restructuring. Specifically, the sale will have no effect on retail markets in Maine and little, if any, effect on the regional wholesale market. Thus, the only remaining question is whether a greater stranded cost reduction could be achieved if BHE divested the contract. We have no basis to conclude that this would be the case. Although the contract contains language that would appear to allow BHE to assign its obligation, the obligation itself is designed as a power delivery from BHE's system. Changing the contract to reflect power delivered from another source would require modifications to the contract and the consent of Unitil. In addition, there would be transaction costs involved in a divestiture of the contract. Finally, BHE is currently using the Unitil contract as security in a debt financing arrangement with BankBoston.

Therefore, we conclude that allowing BHE to retain the Unitil contract, to continue to meet its contractual obligations and to receive the associated revenues will likely provide a greater stranded cost reduction than if BHE divested the contract. Because the Unitil contract requires BHE (or its successor) to provide Unitil with 6 MW of capacity and the associated energy from PERC, BHE is authorized, pursuant to Chapter 307, § 2(C), to withhold the 6 MW of PERC capacity and associated energy from BHE's Chapter 307, § 2(B) bid process. Our finding in Docket No. 98-820, that the Bar Harbor and Eastport diesels were necessary for T&D efficiency, exempts the output from these

units from the Chapter 307 bid auction process. See Chapter 307 § 9.<sup>3</sup> We now authorize BHE to exclude the output of the Medway diesels from the Chapter 307 bid auction process, pursuant to Chapter 307 § 11. In addition, we find that, to meet its obligations under the contract, BHE will be permitted to sell to Unitil a 6 MW portion of its PERC entitlement and the output of its diesel units, and that BHE will be allowed to purchase and sell capacity and energy on the wholesale market, as necessary to meet its Unitil contract obligations in a cost-effective manner.

The issues concerning retention by BHE of the diesel units were litigated in Docket No. 98-820. In its stranded cost investigation, Docket No. 97-596, BHE proposed a stranded cost determination that included the retention by BHE of the Unitil contract. No party in Docket No. 97-596 objected to that proposal, although the Advisors recommended that BHE separately request an extension of the requirement to divest the Unitil contract and to engage in the generation-related activities necessary to administer the contract. Accordingly, there was no need to separately notice this request by BHE and to provide any further opportunity for parties to be heard on the request. We therefore waive the requirement in Chapter 307 § 10 to provide notice and opportunity to be heard.<sup>4</sup>

Accordingly, it is

#### ORDERED

1. Bangor Hydro-Electric Company's request to postpone divesting the Unitil contract until the contract terminates in February 2003 is granted.
2. Bangor Hydro-Electric Company's request to waive the Chapter 307 bid process requirement for its Medway diesel units, to use the capacity and energy provided by its Medway, Bar Harbor and Eastport diesel units to meet its Unitil contract obligation or to sell the capacity and energy on the open market is granted, pursuant to Chapter 307 § 11.
3. Bangor Hydro-Electric Company's request to exempt a 6 MW portion of its PERC entitlement from the bidding and sale requirements of Chapter 307 through February 2003, and to sell the 6 MW portion of capacity and energy entitlement to Unitil, is granted by operation of Chapter 307 § 2(C).

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<sup>3</sup> Accordingly, BHE did not need to file a request to classify the Bar Harbor or Eastport diesels as necessary for T&D efficiency two months before the date to issue requests for bids.

<sup>4</sup> We also waive the requirement in section 10 that the Commission rule on a request within two months, as there was no need to decide BHE's request before the final decision in Docket No. 97-596.

4. Bangor Hydro-Electric Company's request to purchase power from the market until August 2002, as needed to fulfill its supply obligations to Unitil is granted.

Dated at Augusta, Maine, this 1st day of December, 1999.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.